

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed September 2, 2008. In the Office Action claims 1-4, 11, 16, 17, 22, 24, 25, 32, 33, and 43-50 have been preliminarily rejected as being allegedly unpatentable under 35 USC §103(a). Claims 1-4, 11, 16, 17, 22, 24, 25, 32, 33, and 43-50 remain pending for consideration and allowance is respectfully requested.

EXAMINER INTERVIEWS

Two Examiner Interviews have taken place recently. The Applicant sincerely thanks the Examiner for her time during the Interview. A first Examiner interview took place on August 25, 2009 and a second Examiner interview took place on September 11, 2009. Participants in the first Examiner interview included Banafsheh Hadizonooz, Cameron Saadat, and Peter Nieves. Participants in the second Examiner interview included Banafsheh Hadizonooz, Peter Nieves, and Roger Mortimer.

With regard to the first Examiner interview, no agreement was reached. The Applicant argued that the pending application and claim 1 defined over the prior art, especially, Whitehurst, however, the Examiner specified that further limitation, especially with regard to "learning objects," was required to define over the prior art.

With regard to the second Examiner interview, an agreement was reached. Specifically, Mr. Mortimer explained learning objects in additional detail and provided the definition in the pending patent application. The Examiner explained that elaboration on the meaning of a learning object was needed for the pending claims to define over the prior art of record, especially Whitehurst. The Applicant asked if adding the definition in

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the pending patent application, specifically, that a learning object includes learning objectives, course content, and assessment items, would suffice to define over the prior art of record, especially Whitehurst, and the Examiner agreed that adding such language would define over the prior art of record, especially Whitehurst.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

In the Office Action, claims 1-4, 11, 16, 17, 22, 24, 25, 32, 33, and 43-50 have been preliminarily rejected as allegedly being unpatentable over prior art cited. It is well established at law that, for a proper rejection of a claim under 35 U.S.C. §103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly or explicitly, all elements/features/steps of the claim at issue. See, *e.g.*, *In Re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller*, 208 U.S.P.Q. 871, 881 (C.C.P.A. 1981).

In accordance with the Examiner interview, the Applicant has added the limitation of a learning objects including learning objectives, course content, and assessment items, which the Examiner agreed defines over the prior art, especially Whitehurst (US 2002/0142278). This limitation has been added to each independent claim of the pending patent application, which defines over all prior art of record. The Applicant respectfully submits that this amendment to all independent claims (1, 17, 32, 43, 47) places all independent claims in condition for allowance. In addition, since dependent claims 2-4, 11, 16, 22, 24, 25, 33, 44-46, and 48-50 depend from the independent claims, thereby containing all of the limitations of the independent claims, and since the independent

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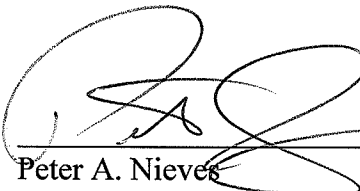
claims should be allowed, the pending dependent claims should be allowed for at least this reason. In re Fine, 5 U.S.P.Q. 2d 1596, 1608 (Fed. Cir. 1988).

CONCLUSION

In light of the foregoing and for at least the reasons set forth above, the Applicant respectfully requests favorable reconsideration and allowance of the present application and the presently pending claims. If in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (603) 627-8134.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'P. Nieves', is written over a horizontal line.

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